

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Application of SBC Communications, Inc.,)	
Pursuant to Section 271 of the)	WC Docket No. 03-167
Telecommunications Act of 1996 to Provide)	
In-Region, InterLATA Services in Illinois,)	
Indiana, Ohio, and Wisconsin)	

COMMENTS OF THE ALLIANCE FOR PUBLIC TECHNOLOGY

The Alliance for Public Technology has consistently urged the Federal Communications Commission (FCC) to pursue the goal of Section 706 of the Telecommunications Act of 1996¹ in every relevant proceeding by encouraging the reasonable and timely deployment of advanced telecommunications capability to all Americans.² Section 706 authorizes the FCC and state telecommunications commissions to use "measures that promote competition in the local telecommunications market or other regulating methods to remove barriers to infrastructure investment," among other means, to achieve the goal of ubiquitous broadband deployment mandated by the Act.

The Alliance for Public Technology (APT) is a nonprofit organization of public interest groups and individuals. APT's members work together to foster broad access to affordable, usable information and communications services and technology for the purpose of bringing better and more affordable health care to all citizens, expanding educational opportunities for lifelong learning, enabling people with disabilities to function in ways they otherwise could not,

¹ 47 USC 157 note.

creating opportunities for jobs and economic advancement, making government more responsive to all citizens and simplifying access to communications technology. To this end, it is APT's goal to:

make available as far as possible, to all people of the United States, regardless of race, color, national origin, income, residence in rural or urban area, or disability high capacity two-way communications networks capable of enabling users to originate and receive affordable and accessible high quality voice, data, graphics, video and other types of telecommunications services.³

The Alliance is not in a position to judge the compliance of any one company with respect to the 14-point checklist of requirements under Section 271, and thus relies upon the expertise of state regulators. We note that the regulatory agencies in each of the four states approved SBC's application and concluded that SBC is in compliance with the checklist items in Section 271.

In Illinois, there are more than 150 approved interconnection and resale agreements with competitors⁴ and CLEC's serve approximately 2.3 million access lines.⁵ The ICC stated, "The presence of competition in Illinois local markets is well-evident and seen to be thriving. It is also well settled that consumer benefits flow from competition in all telecommunications markets."⁶

² See, e.g., Petition of the Alliance for Public Technology Requesting Issuance of Notice of Inquiry and Notice of Proposed Rulemaking to Implement section 706 of the 1996 Telecommunications Act, CC Docket No. 9244 (Feb. 18, 1998) (APT Petition) at 12-13.

³ Alliance For Public Technology, *Principles to Implement the Goal of Advanced Service* at 3 (1995).

⁴ Illinois Commerce Commission, *Order on Investigation*, May 13, 2003 at 34.

⁵ SBC Communications, Inc., *Illinois, Indiana, Ohio and Wisconsin 271 Application*, July 17, 2003 at 15.

⁶ Illinois Commerce Commission, *Order on Investigation*, May 13, 2003 at 913.

CLEC's in Indiana served 284,532 lines as of December 2002⁷ and the Indiana Regulatory Utility Commission reported a continued increase in the quantity of lines and market share served by competitors in Indiana.⁸

The Ohio Public Utilities Commission concluded "that the barriers to competitive entry in the local market have been removed and the local market today in Ohio is open to competition." In 2002, CLEC's serve approximately 516,000 access lines in the state.⁹

In Wisconsin, competitors serve 444,481 lines, which is 18.7% of the total number of access lines in the state. CLEC penetration has doubled since December 2000, with less than half of the CLEC customers served by UNE-P or resale arrangements. The Wisconsin Public Service Commission stated "These data clearly demonstrates that CLEC's have successfully entered the local exchange market in Wisconsin."¹⁰

Further, SBC's self executing performance assurance plans protect against backsliding by putting up to 36% of net revenues at risk annually for noncompliance. The penalties, based on 2003 figures, could reach \$180 million in Illinois, \$76 million in Indiana, \$117 million in Ohio, and \$71 million in Wisconsin.¹¹

In APT's view, Section 271's interLATA prohibitions constrain the widespread deployment of advanced telecommunications infrastructure and therefore undermine Section 706, which seeks to promote investment in ubiquitous high-speed networks. APT maintains the belief that expeditious approval under Section 271 serves the public interest. Such action would

⁷ Federal Communications Commission, "Local Telephone Competition: Status as of December 31, 2002" Wireline Competition Bureau, June 2003

⁸ Indiana Regulatory Utility Commission, *Telephone Report to the Regulatory Flexibility Committee of the General Assembly*, October 2002.

⁹ Public Utilities Commission of Ohio, *Report and Evaluation*, June 25, 2003 at 23, 245

¹⁰ Wisconsin Public Service Commission, *Order regarding Petition of Wisconsin Bell, Inc for a Section 271 Checklist Proceeding*, November 4, 2002 at 6, 11.

¹¹ SBC Communications, Inc., *Illinois, Indiana, Ohio and Wisconsin 271 Application*, July 17, 2003 at 132-138.

advance the goals of Section 706, and reaffirm the Commission's commitment to eliminating regulatory barriers to investment in high-capacity networks.¹²

The Commission again has the opportunity to bolster Section 706's impact by authorizing SBC to provide long distance telephone service in Illinois, Indiana, Ohio and Wisconsin. APT strongly urges the Commission to seize this opportunity to increase facilities-based competition for local and long distance service, and promote ubiquitous broadband network deployment so that all residents, regardless of their income level, location of residence, or physical disabilities, may improve the quality of their lives through access to new sophisticated telecommunications.

APT has every reason to believe that customers in these four states, particularly low volume users, will reap the same gains from lower prices and bundled services that Arkansas, California, Missouri, Kansas, Nevada, Oklahoma and Texas residents are experiencing with SBC's entry into those long distance markets. In anticipation of and in response to SBC's entry into the Texas, Kansas and Oklahoma long-distance markets, incumbent long-distance carriers AT&T, WorldCom, and Sprint began to offer discounts on their regular long-distance plans to customers who also signed up for local service. These discounts are in the form of bundled long-distance monthly fees with local service charges and credits for signing up for a local/long-distance bundle.¹³ AT&T also offered "thank you" messages and thirty minutes of free long

¹² Comments of the Alliance for Public Technology Supporting Bell Atlantic's Request for Authority to Provide Long Distance Service in New York, In the Matter of Application by New York Telephone Company (d/b/a Bell Atlantic-New York) Bell Atlantic Communications, Inc., NYNEX Long Distance Company and Bell Atlantic Global Networks, Inc., for Authorization to Provide In-Region , InterLATA Services in New York, CC Docket No. 99-295 (Oct. 19, 1999) (APT NY Comments) at 2.

¹³ AT&T bundles residential local and long-distance service with a plan called "AT&T Local One Rate Texas." See <http://www.att.com/local_service/tx/html/index.html> (visited Oct. 9, 2000); see also J.G. Smith/Johnson Joint Aff. ¶ 43 (AT&T offers this local one rate only in Texas and New York, the two "states in which the incumbent Bell Operating Company has been given access to AT&T's long distance marketplace"). New York was the first state, followed by Texas, where MCI WorldCom started offering its bundled local and long-distance service referred to as "One Company Advantage." See David DeKok, Competitor Calls on Verizon's Mid-State Clients, Harrisburg Patriot-News, Sept. 14, 2000; Bill Sulon, Telephone Companies Prepare for Battle, Harrisburg Patriot-News, Aug. 27, 2000; see J.G. Smith/Johnson Joint Aff. ¶ 46. And Sprint currently bundles residential local and long-distance

distance service to its customers in Kansas and Oklahoma in an effort to keep them from switching to new services.¹⁴ These actions demonstrate tangible benefits for consumers because of an increased number of competitors in the long distance market.

As SBC deploys its broadband networks, APT encourages the Commission to do all that it can to remove the barriers that inhibit the widest possible extension of these networks. Universal deployment will help all consumers, in these four states and throughout the country, to enjoy the benefits of advanced telecommunications capability.

APT respectfully recommends that the Commission authorize SBC to provide long distance service in Illinois, Indiana, Ohio and Wisconsin.

Respectfully requested,

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service for Texans in five different configurations. See Sprint Local Service – Texas, available at <<https://clec.sprint.com/servlet?CLEC?PAGE+TOCOMPARE&MKT=0003?>> (visited Oct. 9, 2000); see J.G. Smith/Johnson Joint Aff. ¶ 45.

¹⁴ AT&T Press Releases “AT&T Long Distance Customers in Oklahoma Get the Message: Thanks for Your Loyalty” and “AT&T Long Distance Customers in Kansas Get the Message: Thanks for Your Loyalty” March 5, 2001. <http://www.att.com/press/item/0,1354,3702,00.html> and <http://www.att.com/press/item/0,1354,3701,00.html>